

Introduced by Senator Scott

February 7, 2005

An act to amend Section 23790 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 148, as introduced, Scott. Alcoholic beverages: licensing restrictions.

The Alcoholic Beverage Control Act imposes upon the Department of Alcoholic Beverage Control the responsibility to administer and enforce state laws with respect to alcoholic beverages, including the implementation of alcoholic beverage licensing. Among other things, the act prohibits the issuance of any retail license for the sale of alcoholic beverages for any premises that are located in any territory where the exercise of the rights and privileges conferred by the license is contrary to a valid zoning ordinance of any county or city. The act provides that premises which had been used in the exercise of those rights and privileges at a time prior to the effective date of the zoning ordinance may continue operation under specified conditions.

This bill would authorize a county or city to provide for a reasonable amortization period and termination of, or imposition of conditions on legal nonconforming uses pursuant to, a validly enacted zoning ordinance. These provisions would also apply to premises which had been used in the exercise of rights and privileges conferred by the retail license at a time prior to the effective date of the zoning ordinance.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 23790 of the Business and Professions Code is amended to read:

23790. (a) No retail license shall be issued for any premises which are located in any territory where the exercise of the rights and privileges conferred by the license is contrary to a valid zoning ordinance of any county or city.

(b) Premises which had been used in the exercise of those rights and privileges at a time prior to the effective date of the zoning ordinance may continue operation under the following conditions:

~~(a)~~

(1) The premises retain the same type of retail liquor license within a license classification.

~~(b)~~

(2) The licensed premises are operated continuously without substantial change in mode or character of operation.

(c) For purposes of this subdivision, a break in continuous operation does not include:

(1) A closure for not more than 30 days for purposes of repair, if that repair does not change the nature of the licensed premises and does not increase the square footage of the business used for the sale of alcoholic beverages.

(2) The closure for restoration of premises rendered totally or partially inaccessible by an act of God or a toxic accident, if the restoration does not increase the square footage of the business used for the sale of alcoholic beverages.

(c) *Notwithstanding subdivision (b), a county or city may provide for a reasonable amortization period and termination of, or imposition of conditions on legal nonconforming uses pursuant to, a validly enacted zoning ordinance.*